

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**UNITED STATES OF AMERICA**

**VS.**

**4:19-CR-00070-BRW**

**LEROY DEWAYNE CUNNINGHAM**

**ORDER**

Defendant’s motion for First Step Act credits (Doc. No. 52) is DENIED.

On October 23, 2019, Defendant pleaded guilty to being a felon in possession of a firearm.<sup>1</sup> He was sentenced to 180 months in prison.<sup>2</sup> On June 15, 2021, his sentence was reduced for reasons unrelated to the current motion.

Defendant asserts that his sentence should be reduced because the Armed Career Criminal Act (“ACCA”) no longer applies. However, Defendant has two prior convictions for residential burglary and one prior conviction for a qualifying drug offense.<sup>3</sup> Accordingly, the ACCA enhancement still applies to Defendant.

IT IS SO ORDERED this 30th day of January, 2023.

Billy Roy Wilson  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Doc. Nos. 25, 27.

<sup>2</sup> Doc. Nos. 44, 45.

<sup>3</sup>*Daniels v. United States*, 806 F. App’x 493 (8th Cir. 2020) (holding that Arkansas residential burglary qualifies as a violent felony for the purposes of the ACCA); *United States v. Meux*, 918 F.3d 589 (8th Cir. 2019) (holding that a conviction under Ark. Code Ann. § 5-64-401(a) is a “serious drug offense” for purposes of the ACCA).